

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

TERESEA O'BRIEN, *et al.*,

Plaintiffs,

v.

Case No. 2:04-cv-85

JUDGE GEORGE C. SMITH

Magistrate Judge Norah McCann King

ED DONNELLY  
ENTERPRISES, INC., *et al.*,

Defendants.

**OPINION AND ORDER**

This matter is before the Court on *Plaintiffs' Objections to the Magistrate Judge's September 5, 2006 Order Denying Plaintiff's Motion for Sanctions Pursuant to Rule 37 of the Federal Rules of Civil Procedure* ("Plaintiffs' Objection to the September 5, 2006, Opinion and Order"), Doc. No. 123.<sup>1</sup> For the reasons set forth below, *Plaintiffs' Objection to the September 5, 2006, Opinion and Order* is **DENIED**.

**I. PROCEDURAL HISTORY**

On February 1, 2006, plaintiffs filed *Plaintiffs' Motion for Sanctions*, alleging that defendants intentionally lost or destroyed certain documents that should have been available for production in this action. Doc. No. 108. On February 27, 2006, defendants filed *Defendants' Memorandum Contra*, Doc. No., 114, and on March 13, 2006, plaintiffs filed *Plaintiffs' Reply*

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<sup>1</sup>*Plaintiffs' Objection to the September 5, 2006, Opinion and Order* was originally filed as document number 120, but was then re-numbered by this Court's Clerk as number 123.

*Memorandum in Support of Plaintiffs' Motion for Sanctions Pursuant to Rule 37 of the Federal Rules of Civil Procedure*, Doc. No. 166.

On September 5, 2006, United States Magistrate Judge King issued an *Opinion and Order* (“*September 5, 2006, Opinion and Order*”) in which she denied *Plaintiffs' Motion for Sanctions*. Doc. No. 119.

On September 15, 2006, plaintiffs filed *Plaintiffs' Objection to the September 5, 2006, Opinion and Order*, Doc. No. 123, and on September 25, 2006, defendants filed their memorandum *contra Plaintiffs' Objection to the September 5, 2006, Opinion and Order*, Doc. No. 122. On October 4, 2006, plaintiffs filed their reply in support of their objection, Doc. No. 124.

## **II. STANDARD OF REVIEW**

Plaintiffs object to the *September 5, 2006, Opinion and Order*, wherein United States Magistrate Judge King denied plaintiffs' nondispositive motion for sanctions against defendants for their alleged discovery misconduct. 28 U.S.C. § 636(b)(1)(A), requires this Court to apply a “clearly erroneous or contrary to law” standard of review for decisions of magistrate judges on nondispositive motions. *See also United States v. Raddatz*, 447 U.S. 667, 673 (1980); *United States v. Curtis*, 237 F.3d 598, 603 (6th Cir. 2001).

## **III. ANALYSIS**

Nowhere in the twenty-seven pages of *Plaintiffs' Objection to the September 5, 2006, Opinion and Order* do plaintiffs present legal analysis in support of their contention that the *September 5, 2006, Opinion and Order* is clearly erroneous or contrary to law. Indeed, plaintiffs literally cut and paste the majority of their arguments directly from *Plaintiffs' Motion for*

*Sanctions*. After review of *Plaintiffs' Motion for Sanctions* and the *September 5, 2006, Opinion and Order*, this Court concludes that Magistrate Judge King correctly analyzed and properly denied plaintiffs' motion. The Magistrate Judge's decision is amply supported by the evidence and her decision is based on the proper application of the relevant law. Because the *September 5, 2006, Opinion and Order* is not clearly erroneous or contrary to law, 28 U.S.C. § 636(b)(1)(A), plaintiffs' objections to it are without merit.

#### IV. CONCLUSION

For the foregoing reasons, *Plaintiffs' Objection to the September 5, 2006, Opinion and Order*, Doc. No. 123, is **DENIED**.

**IT IS SO ORDERED.**

/S/ George C. Smith

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**GEORGE C. SMITH**  
**UNITED STATES DISTRICT JUDGE**